

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**HB 7018**

August 21, 2023

**SUMMARY OF BILL:** Increases the penalty by one classification for the offenses of stalking, aggravated stalking, or especially aggravated stalking if the offense was committed because of the victim's status as a healthcare provider who provides gender-affirming care. Classifies the offense as a hate crime. Effective October 1, 2023.

**FISCAL IMPACT:**

**Increase State Expenditures - \$23,600 Incarceration**

**Decrease Local Expenditures – \$1,400/FY23-24  
\$1,800/FY24-25 and Subsequent Years**

**Assumptions:**

*Enhancing the Penalty for Stalking, from a Class A Misdemeanor to a Class E Felony:*

- Pursuant to Tenn. Code Ann. § 39-17-315(b)(2), it is a Class A misdemeanor for a person to intentionally engage in stalking.
- The proposed legislation enhances the penalty to a Class E felony if the offense was committed because of the victim's status as a healthcare provider who provides gender-affirming care.
- Based on information provided by the Administrative Office of the Courts (AOC), there has been an average of 41.9 Class A misdemeanor convictions of stalking in each of the last 10 years.
- This analysis assumes that only 10 percent of misdemeanor convictions are at the state court level. As a result, it is estimated that there are 419 convictions (41.9 / 10.0%) per year for Class A misdemeanor stalking.
- Pursuant to Public Chapter 1 of 2023, healthcare providers are prohibited from knowingly performing or offering to perform on a minor, or administering or offering to administer to a minor, a medical procedure if the performance or administration of the procedure is for the purpose of enabling a minor to identify with, or live as, a purported identity inconsistent with the minor's sex, or treating purported discomfort or distress from a discordance between the minor's sex and asserted identity.
- The number of healthcare providers who provide gender-affirming care in Tennessee is unknown; however, it is reasonably assumed there are few healthcare providers who provide gender-affirming care in this state and who could therefore be potential victims of stalking, aggravated stalking, or especially aggravated stalking because of their status as a healthcare provider who provides gender-affirming care.

- This analysis assumes one half of one percent or 2.1 (419 x 0.05%) convictions for the Class A misdemeanor offense of stalking will be enhanced to a Class E felony as a result of this legislation.
- The proposed legislation will result in 2.1 admissions annually serving 0.59 years.
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 1.07 percent per year (from 2019 to 2022).
- The weighted average operational costs per day are estimated to be \$50.63 for inmates housed at state facilities and \$52.11 for inmates housed at local facilities.
- The increase in incarceration costs is estimated to be the following over the next three-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ 23,100	FY24-25
\$ 23,400	FY25-26
\$ 23,600	FY26-27

*Enhancing the Penalty for Stalking, from a Class E Felony to a Class D Felony:*

- Pursuant to Tenn. Code Ann. § 39-17-315(b)(3), it is a Class E felony offense for a person to intentionally engage in stalking if the defendant, at the time of the offense was required to or was registered with the TBI as a sexual offender, violent sexual offender or violent juvenile sexual offender.
- The proposed legislation enhances such penalty to a Class D felony offense if the offense was committed because of the victim's status as a healthcare provider who provides gender-affirming care.
- Based upon information provided by the Department of Correction (DOC), there has been an average of 0.5 admissions per year over the last 10 years for the Class E felony offense under Tenn. Code Ann. § 39-17-315(b)(3) for felony stalking.
- Due to the low number of average admissions, it is reasonably assumed there will not be a sufficient number of prosecutions for state government to experience any significant increase in revenue or expenditures.

*Enhancing the Penalty for Aggravated Stalking, from a Class E Felony to a Class D Felony:*

- Pursuant to Tenn. Code Ann. § 39-17-315(c)(2), aggravated stalking is a Class E felony offense.
- The proposed legislation enhances such penalty to a Class D felony offense if the offense was committed because of the victim's status as a healthcare provider who provides gender-affirming care.
- Based upon information provided by the DOC, there has been an average of 8.8 admissions per year over the last 10 years for the Class E felony offense under Tenn. Code Ann. § 39-17-315(c)(2) for aggravated stalking.
- Due to the low number of average admissions, it is reasonably assumed there will not be a sufficient number of prosecutions for state government to experience any significant increase in revenue or expenditures.

*Enhancing the Penalty for Especially Aggravated Stalking, from a Class C Felony to a Class B Felony and Total State Expenditures:*

- Pursuant to Tenn. Code Ann. § 39-17-315(d)(2), especially aggravated stalking is a Class C felony offense.
- The proposed legislation enhances such penalty to a Class B felony offense if the offense was committed because of the victim's status as a healthcare provider who provides gender-affirming care.
- Based upon information provided by the DOC, there has been an average of 1.5 admissions per year over the last 10 years for the Class C felony offense under Tenn. Code Ann. § 39-17-315(d)(2) for especially aggravated stalking.
- Due to the low number of average admissions, it is reasonably assumed there will not be a sufficient number of prosecutions for state government to experience any significant increase in revenue or expenditures.
- Pursuant to Chapter 1007 of 2022, recurring costs increases are to be estimated on the highest of the next three fiscal years; therefore, the recurring increase in incarceration costs will be \$23,600.

*Decrease in Class A Misdemeanors:*

- It is assumed that an individual convicted of a Class A misdemeanor offense will spend an average of 15 days in a local jail.
- Based on cost estimates provided by local government entities throughout the state and reported bed capacity within such facilities, the weighted average cost per day to house an inmate in a local jail facility is \$58.21.
- The recurring mandatory decrease in expenditures to local governments is estimated to be \$1,375 [(2.1 convictions x \$58.21 x 15) x 75%] in FY23-24 and \$1,834 (2.1 convictions x \$58.21 x 15) in FY24-25 and subsequent years.
- Based on the Fiscal Review Committee's 2008 study and the AOC's 2012 study on collection of court costs, fees, and fines, collection in criminal cases is insignificant. The proposed legislation will not significantly change state or local revenue.
- The estimated fiscal impact of the proposed legislation does not consider the availability of beds in state and local facilities, but is based solely on the current operating costs of state facilities and the reimbursement rates for local facilities as is required by Tenn. Code Ann. § 9-4-210.
- All calculations used in completion of this fiscal analysis are available upon request.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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